

**LEGALLY BINDING AGREEMENT
BETWEEN
THE CITY OF READING LOCAL REDEVELOPMENT AUTHORITY
AND
MARY'S SHELTER**

1 **THIS LEGALLY BINDING AGREEMENT ("Agreement")** is made as of the 4th day
2 of October, 2010, between the **City of Reading Local Redevelopment Authority**
3 (**"LRA"**), the Federally recognized local redevelopment authority for the Navy Marine Corps
4 Reserve Center, and **Mary's Shelter** (the **"Provider"**). The LRA and the Provider may be
5 referred to jointly as the **"Parties"** or individually as a **"Party."**

WITNESSETH

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7
8
9 **WHEREAS**, the Navy Marine Corps Reserve Center (**"NMCRC"**) located in Reading,
10 Pennsylvania was recommended for closure by the 2005 Base Closure and Realignment
11 Commission;

12
13 **WHEREAS**, the property on which the NMCRC is located (the **"Property"**) will be
14 disposed of by the Department of Defense (**"DoD"**) pursuant to the Defense Base Closure and
15 Realignment Act of 1990, as amended (the **"Base Closure Act"**);

16
17 **WHEREAS**, the Base Closure Community Redevelopment and Homeless Assistance
18 Act of 1994, as amended (the **"Redevelopment Act"**) requires that the LRA submit to the United
19 States Department of Housing and Urban Development (**"HUD"**) a **"Homeless Submission"**,
20 which includes a copy of the legally binding agreement that the LRA proposes to enter into with
21 representatives of the homeless selected by the LRA to implement homeless programs that fill
22 gaps in the existing continuum of care;

23
24 **WHEREAS**, the LRA is the Federally recognized local reuse authority required by the
25 Base Closure Act to prepare a reuse plan for the Property (**"Reuse Plan"**), which is part of the
26 Homeless Submission;

27
28 **WHEREAS**, the LRA will submit for approval to the Federal Government acting
29 through HUD and the Department of Defense (**"DoD"**) the Homeless Submission;

30
31 **WHEREAS**, this Agreement is intended to implement the Homeless Submission and
32 legally bind the Parties and to fulfill the Redevelopment Act requirement;

33
34 **WHEREAS**, if HUD determines that the Homeless Submission and the Reuse Plan
35 adequately address the needs of the homeless in the surrounding community and balances the
36 needs of the homeless with the needs of the community for economic redevelopment, then HUD

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1 will approve the Homeless Submission that includes the Reuse Plan and notify the DoD and the
2 LRA of such approval;

3
4 **WHEREAS**, pursuant to the screening process set forth in the Redevelopment Act and
5 the Base Closure Act, the Provider submitted a Notice of Interest ("NOI") to the LRA on
6 JAN 7, 2010, a copy of which is attached hereto as Exhibit A, for use of a one (1) acre
7 parcel described on Exhibit B (the "Provider Parcel");

8
9 **WHEREAS**, the LRA and the Provider desire that the United States of America, acting
10 through the Department of the Navy ("Navy"), transfer the Provider Parcel at no-cost to the
11 Provider by quitclaim deed ("Deed") to allow Provider to provide homeless programs consistent
12 with the needs of the community ("Homeless Purposes");

13
14 **WHEREAS**, the LRA and the Provider wish to enter into this Agreement to comply with
15 applicable Federal laws, address the needs of the homeless, to further the reuse and
16 redevelopment of the Property, and describe the actions of the Parties in the event that the
17 Provider fails to use the Provider Parcel for Homeless Purposes.

18
19 **NOW, THEREFORE**, the Parties hereby agree as follows:

20 21 **ARTICLE 1. LRA OBLIGATIONS.**

22
23 **1.01 Reuse Plan.** The LRA will complete and file a Reuse Plan with the DoD and
24 HUD. The Reuse Plan will reference the no-cost transfer of the Provider Parcel from the Navy
25 to the Provider for Homeless Purposes.

26 27 **ARTICLE 2. PROVIDER OBLIGATIONS.**

28
29 **2.01 Consent to NOI Objective.** In consideration for the transfer of title at no-cost to
30 the Provider Parcel from the Navy, the Provider shall accept title to the Provider Parcel as the
31 preferred means to accomplish the goals set forth in the Provider's NOI Application.

32
33 **2.02 Use of Provider Parcel.** The Provider agrees to use the Provider Parcel for
34 Homeless Purposes for a minimum of fifteen (15) years. In the event that the Provider
35 determines that the Provider will no longer use the Provider Parcel for Homeless Purposes, then
36 the Provider agrees to comply with the terms and conditions set forth in Article 4.

37
38 **2.03 Communication to Agencies.** If the Provider makes any written comments, or
39 engages in any written communications, with any local, state, or federal agency regarding the
40 approval or implementation of any future development proposals, applications, approvals or
41 permits (including any related environmental documentation) relating to the Provider Parcel, or

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any proposed, approved, or existing uses to the Provider Parcel, the Provider shall immediately provide complete copies of such written comments or communications to the LRA.

ARTICLE 3. CONTINGENCIES.

3.01 Contingencies. The obligations set forth in Article 1 and Article 2 of this Agreement are contingent upon the following events occurring (the “Contingencies”):

3.1.1 Approval of the Homeless Submission, to include the Reuse Plan and this Agreement, by HUD;

3.1.2 Transfer by the Navy of the Provider Parcel to the Provider by Deed shall be conditioned on the agreement of the parties that if the Provider fails to use the Provider Parcel for Homeless Purposes for less than fifteen (15) years, the Provider Parcel shall revert to the LRA as provided for in Section 4 of this Agreement, and the LRA shall take appropriate actions to secure, to the maximum extent practicable, the utilization of the building or property by other homeless representatives to assist the homeless; however, the LRA may not be required to utilize the building or property to assist the homeless.

3.1.3 The closure and disposal of the Property by the United States in a manner consistent with such Federally approved Reuse Plan.

ARTICLE 4. FAILURE BY THE PROVIDER TO USE THE PROVIDER PARCEL FOR HOMELESS PURPOSES.

4.01 Notifications to LRA. If, during the fifteen (15) – year period commencing on the effective date of the Deed (“Restricted Period”), the Provider (i) determines that the Provider is no longer using the Provider Parcel for Homeless Purposes, or (ii) is notified by the Navy that the Provider is failing to comply with the Agreement, then the Provider shall promptly notify the LRA in writing.

4.02 Assignment of Rights.

4.2.1 If the Provider determines that the Provider will no longer use the Provider Parcel for Homeless Purposes and the Provider has not used the Provider Parcel for Homeless Purposes during the Restricted Period, then the Provider shall promptly assign all rights to the Provider Parcel to the LRA.

4.2.2 If the Navy or the LRA believes that the Provider is failing to use the Provider Parcel for Homeless Purposes, during the Restricted Period, then the Navy or the LRA shall give the Provider written notice of such failure. If after one hundred and eighty (180) days

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1 from receipt of this notice such failure is not corrected, then Provider shall promptly assign all
2 rights to the Provider Parcel to the LRA.

3
4 **4.03 Right of Reversion.** If it is judicially determined that the Provider violated
5 Section 4.2.2 of this Agreement, then LRA shall have an immediate right of entry to the Provider
6 Parcel and, at the option of the LRA, subject to the cure provisions set forth in Section 4.2.2,
7 Provider, its successors and assigns, shall forfeit all right, title, and interest in and to the Provider
8 Parcel and in and to any and all improvements, tenements, hereditaments, and appurtenances
9 thereto.

10
11 **4.04 Acquisition of Provider Parcel by LRA.** In the event the Provider's rights are
12 extinguished in accordance with Sections 4.02 and Section 4.03, then the LRA shall take
13 appropriate actions to secure, to the maximum extent practicable, the utilization of the Provider
14 Parcel by other homeless representatives to assist the homeless in accordance with the Reuse
15 Plan and the Homeless Submission; however, the LRA may not be required to utilize the
16 building or property to assist the homeless.

17
18 **4.05 Mortgage Protections.** If any mortgagee, as condition of providing financing
19 for the development of the Provider Parcel for Homeless Purposes, requests that the LRA
20 subordinate its rights as set forth in this Section, then the LRA shall agree to such request to the
21 extent such request is made in good faith and only to the extent of the financed amount as set
22 forth in any applicable mortgage.

23 **ARTICLE 5. ENTIRE AGREEMENT, AMENDMENT, WAIVER.**

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26 **5.01** This Agreement contains the entire agreement and understanding of the Parties
27 with respect to all rights and responsibilities associated with the Property, and may not be
28 amended, modified or discharged nor may any of its terms be waived except by an instrument in
29 writing signed by the party to be bound thereby. The Parties hereto shall not be bound by any
30 terms, conditions, statements, warranties or representations, oral or written, not contained herein.
31 This Agreement supersedes and replaces any prior agreements by the Parties.

32 **ARTICLE 6. NOTICES.**

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35 **6.01** Any notice, request, demand, instruction or other document to be given or served
36 hereunder or under any document or instrument executed pursuant hereto shall be in writing and
37 shall be delivered personally (including by messenger) or sent by United States registered or
38 certified mail, return receipt requested, postage prepaid or by courier, postage prepaid and
39 addressed to the parties at their respective addresses set forth below, and the same shall be
40 effective upon receipt if delivered personally or by messenger or two business days after deposit
41 in the mails if mailed. A party may change its address for receipt of notices by service of a
42 notice of such change in accordance herewith.

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If to the LRA:

City of Reading Local Redevelopment Authority
Attn: Linda A. Kelleher CMC, City Clerk
City of Reading
815 Washington Street
Reading, PA 19601

With a copy to:

Barry Steinberg, Esq.
Kutak Rock, LLP
1101 Connecticut Ave, NW, Suite 1000
Washington, DC 20036

and

[City Attorney]

If to the Provider:

Mary's Shelter

With a copy to:

John J. Miravich, Esq.
Fox Rothschild LLP
Eagleview Corporate Center
747 Constitution Drive, Suite 100
Exton, PA 19341

ARTICLE 7. MISCELLANEOUS.

7.01 Survival and Benefit. All representations, warranties, agreements, obligations and indemnities of the Parties shall, notwithstanding any investigation made by any party hereto, survive closing and the same shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties.

7.02 Assignment. Without written consent of the LRA, which will not be unreasonably withheld, this Agreement is not assignable by the Provider, either in whole or in part. The LRA may, in its reasonable discretion, assign this Agreement to another public entity provided that such public entity assumes and agrees to perform the LRA's obligations hereunder.

7.03 Applicable Law. This Agreement shall be governed by and construed in accordance with federal law and the laws of the Commonwealth of Pennsylvania, as applicable.

7.04 Severability. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or

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circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

7.05 Entire Understanding of the Parties. This Agreement constitutes the entire understanding and agreement of the Parties with respect to implementation of those portions of the Reuse Plan related to homeless needs and facilities pursuant to the Redevelopment Act and the Base Closure Act.

7.06 Title of Parts and Sections. Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in interpreting any part of the Agreement's provisions.

7.07 Time is of the essence. In the performance of this Agreement, time is of the essence.

7.08 Multiple Originals; Counterparts. This Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

ARTICLE 8. EXHIBIT LIST.

8.01 The following exhibits are attached hereto and made a part of this Agreement:

Exhibit A. NOI Submitted by the Provider

Exhibit B. Provider Parcel

[Signature Page Follows]

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1 **IN WITNESS WHEREOF**, the Parties have approved this Legally Binding Agreement on the
2 4th day of October, 2010.
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6 **CITY OF READING LOCAL REDEVELOPMENT AUTHORITY**
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10 by: 

11
12 date: Nov 17, 2010
13
14

15
16 **MARY'S SHELTER**
17
18
19

20
21 by: Christine Falk
22

23 date: Oct 4, 2010
24



Mary's Shelter
Mary's Home

736 Upland Avenue • Reading, PA 19607
610-603-8010 • Fax 610-603-8012
www.marysshelter.org

January 7, 2010

Ms. Linda Kelleher
City of Reading
815 Washington Street
Reading, PA 19601

Dear Linda,

Mary's Shelter is no longer pursuing a joint project with Berks Women in Crisis since the withdrawal of their NOI for the Naval Marine Reserve Center, Kenhorst. Mary's Shelter maintains an interest in working collaboratively with The Reading Hospital & Medical Center on their NOI for the Naval Reserve Center.

Mary's Shelter is a homeless shelter and social services agency licensed by the State of Pennsylvania to provide assistance to homeless pregnant young women and their children.

Mary's Shelter is interested in acquiring one acre of the property for the development and construction of a larger Shelter facility. The current Shelter operation at 325 South 12th Street, Reading would be relocated to this new facility. The new building and design would allow Mary's Shelter to operate more efficiently and effectively while doubling the residential capacity for families as well as single pregnant women. The NOI submitted by Mary's Shelter in 2006 outlines the proposed increase in residential capacity and outreach services offered to the community.

We look forward to collaborating with The Reading Hospital & Medical Center and working with the Reading LRA to develop a plan for a successful transition of the facility.

Please feel free to contact me directly if you have any questions or need additional information.

Sincerely,

Christine Folk
Executive Director